

# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

FILE: B-219057.3 DATE: January 02, 1986  
MATTER OF: Isometrics, Inc.

## DIGEST:

1. Transportation rates used by a procuring agency to compare a bid to supply goods f.o.b. origin with other bids that include transportation costs, i.e., f.o.b. destination, must be available to the government at the time of bid opening.
2. Protest is denied when protester fails to establish that estimate of transportation costs by procuring agency, based upon use of a full truckload rate by one carrier and a less than full truckload rate by a second carrier, violates applicable regulations.

Isometrics, Inc., protests a proposed award to Beta Systems Inc. under invitation for bids (IFB) No. DAAJ10-85-B-A048, issued on March 19, 1985 by the U.S. Army Troop Support Command, St. Louis, Missouri. Isometrics argues that the Army improperly evaluated Beta's transportation costs and that under a proper evaluation, Isometrics, not Beta, would be the low bidder.

We deny the protest.

The Army sought bids for 556 metal liquid storage tanks for petroleum products. The IFB allowed firms to bid on the basis of f.o.b. origin (i.e., for delivery to a carrier at the bidder's facility), f.o.b. destination (for delivery to the Army facility), or both. Isometrics submitted bids on both bases, and its f.o.b. destination bid (\$891,824) was the lowest f.o.b. destination bid received. Beta submitted the lowest f.o.b. origin bid (\$817,570).

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In order to determine which bid represented the lowest overall cost to the government, the Army added to Beta's bid the government's estimated transportation costs from Beta's plant in North Carolina to the destination point, the Red River Army Depot in Texarkana, Texas. Based upon freight rates furnished by the Military Traffic Management Command, the Army estimated that these costs would be \$30,546.63. Adding this amount to Beta's bid, the contracting officer concluded that at a total of \$848,116.63, Beta was the low bidder.

Isometrics protested to our Office, alleging that in estimating Beta's transportation costs, the Army had improperly used a freight rate based on the weight of the shipments rather than on a price for each truckload shipped. The agency agreed and, using a revised estimate of \$65,854.50 for shipping Beta's storage tanks, the contracting officer concluded that at \$883,424.50, Beta remained the low bidder. Isometrics protested this revised estimate, since it was based on a freight rate offered by a firm, A-1 Trucking & Rigging, Inc., that did not have freight rate tenders on file with the Army.<sup>1/</sup> The Army agreed that it could not use the A-1 rates to estimate Beta's transportation costs. The agency, however, stated that it had found a freight rate tendered by Blue Water Transport that was lower than that of A-1, so that Beta was still the overall low bidder.

Isometrics now protests the use of Blue Water's rates. Isometrics argues that the Blue Water rates were not a proper basis for estimating transportation costs, and that the Army mistakenly calculated the costs by assuming the use of 45-foot trucks instead of the 40-foot trucks to which Blue Water's rates were applicable.

When agencies solicit offers on the basis of either or both f.o.b. origin or f.o.b. destination, the regulations require that the offers be evaluated to determine the lowest overall cost to the government. Federal Acquisition Regulation (FAR), 48 C.F.R. § 47.305-2 (1984). Since the government must pay for the transportation of goods purchased on an f.o.b. origin basis, contracting officers

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<sup>1/</sup>Common carriers subject to the jurisdiction of the Interstate Commerce Commission, under 49 U.S.C. § 10721 (1982), make open offers to transport goods for the government at reduced rates by filing and publishing rates. See the Federal Acquisition Regulation, 48 C.F.R. § 47.104-1 (1984).

must add the lowest available freight rates and related charges to f.o.b. origin bids in order to compare them with bids that include transportation to the government facility. See FAR, 48 C.F.R. §§ 47.306, 47.306-2. The freight rates used must be effective on or before the expected date of initial shipment and must be on file or published on the date of bid opening. FAR, 48 C.F.R. § 47.306-2; see also 39 Comp. Gen. 774 (1960).

The Blue Water tender filed on the date of bid opening provided mileage rates for shipments without specifying the size of truck. Isometrics asserts, and the Army agrees, that Blue Water only had 40-foot flatbed trucks available at the time of bid opening. The Army, however, calculated transportation costs based upon use of 45-foot trucks, which would require fewer shipments than if 40-foot trucks were used. If the Army had calculated transportation costs based upon Blue Water's rates and use of its 40-foot trucks, Isometrics' bid would have been low.

The agency cites our unpublished decision in B-147574, Jan. 5, 1962, for the proposition that the availability of a particular size truck at the estimated time of shipment determines whether transportation costs may be based on that size truck. In the cited decision, a published tariff applied to both 40-foot and 50-foot boxcars. Since it appeared that 50-foot boxcars were in short supply and might not be available at the time of shipment, we held that the agency could estimate transportation costs based upon the smaller boxcars.

Here, while the agency contends that Blue Water now has some longer trucks, there was no freight rate on file at the time of bid opening that was specifically applicable to shipment on those trucks. Moreover, the Army has not suggested that Blue Water's previous tender would be available to the government for the longer trucks. Consequently, we find that the evaluation of bids was not based upon freight rates available to the government at bid opening and was, therefore, improper. In view of this conclusion, we need not consider the protester's other arguments as to why use of Blue Water's rate was improper.

This does not, however, provide a basis to sustain the protest. In its response to the protest, the Army offers another alternative, estimating transportation costs based upon two different tenders, one for full truckload shipments by Thunderbird Motor Freight Lines and one for less than truckload shipments by Bowman Transportation, Inc. The

protested contract will require shipment of 45 tanks per month; this will result in the shipment of five full truckloads of eight storage tanks each and the shipment of one less than full truckload shipment (five tanks). According to the Army, while Thunderbird offers the lowest rate for full truckload shipments, it does not offer less than truckload (LTL) rates. The Army used the lowest LTL rate available, that of Bowman, for the one shipment per month that will not use a full truckload. Using these two rates to estimate transportation costs, the Army concluded that with an evaluated total of \$885,792, Beta still had submitted the low bid.

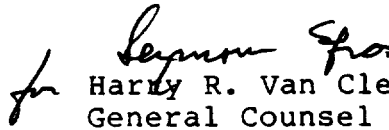
The protester contends that procurement regulations require estimates of transportation costs to be based on full truckload rates. The provisions cited by Isometrics, however, do not support this contention. The FOB ORIGIN CARLOAD AND TRUCKLOAD SHIPMENTS (Apr. 1984) clause, FAR, 48 C.F.R. § 52.247-59, included in the IFB, only requires full truckload shipments when the quantity to be delivered to one destination in any delivery period is sufficient to fill a truck. Similarly, the other provisions cited by Isometrics, FAR, 48 C.F.R. §§ 47.305-3 and 47.305-16, address the use of full truckload shipments in the context of ensuring the most economical shipments. They do not preclude the use of LTL rates for evaluation purposes.

The protester also contends that Southwestern Motor Conference (SMC) tariff 190 (a voluntary agreement among carriers) requires that shipments occupying more than 50 percent of the available space on a truck be shipped at full truckload rates. Isometrics has neither provided any portion of SMC 190 in support of its contention nor cited the particular provision it relies upon. The portion of the tariff included in the procurement record does not restrict freight rates as the protester asserts.

Finally, Isometrics contends that in response to its first protest, the Army agreed that it was improper to use LTL rates to estimate transportation costs. The record does not support this allegation. A memorandum prepared by the contracting officer in connection with Isometrics' first protest states that Army agrees that an LTL rate based on weight is inapplicable to a full truckload shipment, but that it is proper to apply the lowest truckload rate to full truckload shipments and the lowest LTL rate to the excess portion of Beta's monthly shipments. Isometrics'

unsupported allegations are insufficient to meet its burden of affirmatively proving its case. See Edward E. Davis Contracting, Inc., B-199524, Jan. 13, 1981, 81-1 CPD ¶ 20.

We do not find that the Army's estimate of transportation costs for Beta's storage tanks, based upon truckload and LTL rates of Thunderbird and Bowman, respectively, violates applicable regulations. We deny the protest.

  
for Harry R. Van Cleve  
General Counsel